

# Order

**Michigan Supreme Court  
Lansing, Michigan**

November 23, 2010

Marilyn Kelly,  
Chief Justice

ADM File No. 2005-11

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

Proposed Amendments of  
Canon 4 and Canon 5 of the  
Michigan Code of Judicial Conduct

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On order of the Court, this is to advise that the Court is considering amendments of Canon 4 and Canon 5 of the Michigan Code of Judicial Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The schedule and agendas for public hearings are posted on the Court's website at <http://courts.michigan.gov/supremecourt/Resources/Administrative/ph.htm>.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Canon 4 A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

A judge, subject to the proper performance of judicial duties, may engage in the following quasi-judicial activities:

A. A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

B. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice,

and may otherwise consult with such executive or legislative body or official on such matters.

C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds, including speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such organization, and may participate in ~~their~~ management and investment of the funds, but should not individually solicit funds. To the extent practicable, a judge must be shielded from the identity of contributors and the amount of their contributions. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

#### Canon 5 A Judge Should Regulate Extra-Judicial Activities to Minimize the Risk of Conflict With Judicial Duties

A. Avocational Activities. A judge may write, lecture, teach, speak, and consult on nonlegal subjects, appear before public nonlegal bodies, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of the office or interfere with the performance of judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge may serve and be listed as an officer, director, trustee, or nonlegal advisor of a bona fide educational, religious, charitable, fraternal, or civic organization, ~~subject to the following limitations:~~

~~(1) A judge should not serve if~~ unless it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

~~(2)C.~~ A judge should not individually solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the office for that purpose, ~~but may be listed as an officer, director, or trustee of such an organization.~~ A judge may, however, join a general appeal on behalf of an educational, religious, charitable, or fraternal organization, ~~or speak on behalf of such organization~~ and may speak at, receive an award or other recognition at, be featured on the program of, and permit his or her title to be used in connection with an event of such organization. To the extent practicable, a judge must be shielded from the identity of contributors and the amount of their contributions.

C-G. [Relettered but unchanged.]

Staff Comment: The proposal contained in this order seeks to clarify the role a judge may play in fundraising events for law-related and educational, religious, charitable, fraternal, or civic organizations. The proposal would specifically allow a judge to speak, appear, or be a guest or accept an award at a fundraising event of both law-related and educational, charitable, religious, and civic organizations, and must be shielded as much as possible from knowing who has contributed and the amount of contributions.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2011, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2005-11. Your comments and the comments of others will be posted at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.gov/supremecourt/resources/administrative/index.htm).



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 23, 2010

*Corbin R. Davis*  
Clerk